

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)  
015280-371100US

First named inventor: Susanna M. Rybak

Application No.: 09/807,556

Filed: 07/30/2001

MAR 26 2004

Art Unit:

Examiner:

Title: SELECTIVE TOXICITY OF AMINO-TERMINAL MODIFIED RNase A SUPERFAMILY  
POLYPEPTIDES

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APR 01 2004

**OFFICE OF PETITIONS**

Attention: Office of Petitions

**Mail Stop Petition**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions  
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a  
notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the  
expiration date of the period set for reply in the Office notice or action plus any extensions of time  
actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee -- required for all utility and plant applications  
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$1130 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in

the form of Response to Notification of Abandonment; Response to Notification to Comply with  
Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence  
Disclosures; and Communication Under 37 CFR 1.821-1.825 and Preliminary Amendment with  
sequence listing diskette.

- ☐ has been filed previously on \_\_\_\_\_.
- ☒ are enclosed herewith.

B. The issue fee of \$ \_\_\_\_\_

- ☐ has been paid previously on \_\_\_\_\_.
- ☐ is enclosed herewith.

[Page 1 of 2]

03/30/2004 AWONDAF1 00000064 201430 09807556

~~01 FC:1453~~ ~~1330.00 DA~~

Adjustment date: 04/29/2004 GFREY1  
03/30/2004 AWONDAF1 00000064 201430 09807556  
01 FC:1453 1330.00 CR

## 3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$\_\_\_\_\_ for a small entity or \$\_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

03/22/2004

Date



Signature

Telephone

Number: (415-576-0200) \_\_\_\_\_

Jean M. Lockyer

Reg. No. 44,879

Typed or printed name

Townsend and Townsend and Crew LLP

Two Embarcadero Center, 8th Floor

San Francisco, CA 94111-3834

Address

Enclosures: ☒ Fee Payment☒ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unintentional delay

Other \_\_\_\_\_

## CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

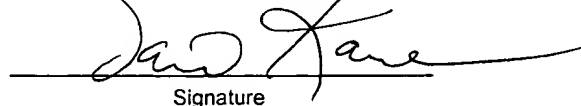
I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

03/23/2004

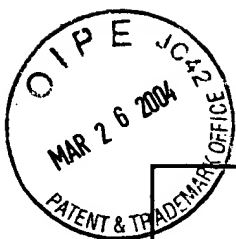
Date



Signature

Dana Kane

Typed or printed name of person signing certificate



<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>		Application Number	09/807,556
		Filing Date	July 30, 2001
		First Named Inventor	Susanna, Rybak M.
		Art Unit	1633
		Examiner Name	Not yet assigned
Total Number of Pages in This Submission	35	Attorney Docket Number	015280-371100US

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**OFFICE OF PETITIONS**

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer  <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter  <input checked="" type="checkbox"/> Other Enclosure(s) <i>(please identify below):</i>  Return Postcard; Fee Trans. SB/17 (1 pg., 2 copies); Pet. for Revival Unintentionally Aband. Pat. Appl. SB/64 (2 pgs., 2 copies); Statement Accompanying Pet. to Revive (2 pgs.); copy of Notification to Comply re Seq. List. (2 pgs.); Comm. Under 37 CFR 1.821-1.825 and Pre. Amend. (12 pgs.); seq. list. diskette; and printed seq. list. 12 pgs.).
Remarks		The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual	Townsend and Townsend and Crew LLP Jean M. Lockyer, Ph.D. Reg. No. 44,879
Signature	
Date	03/23/2004

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Dana Kane		
Signature		Date	03/23/2004

OIP  
MAR 6 2004  
PATENT & TRADEMARK OFFICE

# FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 1330

Complete if Known

Application Number 09/807,556  
Filing Date July 30, 2001  
First Named Inventor Susanna, Rybak M.  
Examiner Name Not yet assigned  
Art Unit 1633  
Attorney Docket No. 015280-371100US

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OFFICE OF PETITIONS

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:Deposit  
Account  
Number

20-1430

Deposit  
Account  
Name

Townsend and Townsend and Crew LLP

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments☒ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

## 1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1)

(\$)

## 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims		Extra Claims		Fee from below		Fee Paid
Independent Claims						
Multiple Dependent						

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2)

(\$)

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

## 3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	1330
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Petitions related to provisional applications	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) \_\_\_\_\_

\*Reduced by Basic Filing Fee Paid SUBTOTAL (3)

(\$1330)

## SUBMITTED BY

Complete (if applicable)

Name (Print/Type) Jean M. Lockyer, Ph.D. Registration No. (Attorney/Agent) 44,879 Telephone 415-576-0200

Signature Date 03/23/2004

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

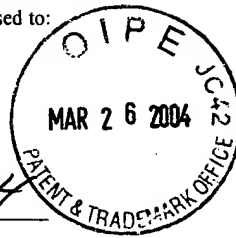
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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

On

TOWNSEND and TOWNSEND and CREW LLP

By:



PATENT  
Attorney Docket No.: 015280-371100US  
Client Ref. No.: E-230-98/0

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**APR 01 2004**

**OFFICE OF PETITIONS**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

RYBAK and NEWTON

Application No.: 09/807,556

Filed: July 30, 2001

For: SELECTIVE TOXICITY OF  
AMINO-TERMINAL MODIFIED  
RNASE A SUPERFAMILY  
POLYPEPTIDES

Customer No.: 20350

Confirmation No. 9130

Examiner: Not yet assigned

Technology Center/Art Unit:

STATEMENT ACCOMPANYING  
PETITION UNDER 37 C.F.R. § 1.137(b)  
TO REVIVE AN UNINTENTIONALLY  
ABANDONED APPLICATION

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants are in receipt of a Notification of Abandonment mailed February 20, 2004, for the above-referenced application. Applicants petition to revive the application under 37 CFR §1.137(b). The application was unintentionally abandoned because of an inadvertent error in Applicants' understanding of whether extensions of time were available.

Applicants received a Notification to Comply With Requirements for Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures, which was mailed on October 23, 2003. The due date was set out as two months (December 23, 2003).

S.N. 09/807,556  
Amdt. dated March 23, 2004  
Reply to Notice of Abandonment

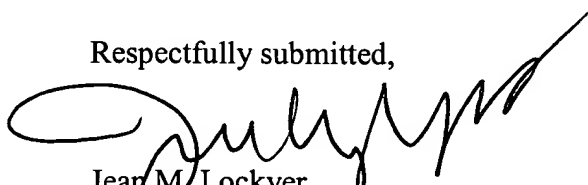
Applicants believed that the reply in response to the Notification to Comply could be submitted under the provisions of 37 CFR 1.136(a) such that extensions of time were available to extend the time for response for up to four months when accompanied by the proper fee authorization. Accordingly, Applicants believed that a response could be filed after December 23, 2003, provided that appropriate fees were paid. Applicants had planned on filing such a response with the appropriate extension fee authorization. The failure to timely respond to the Notification to Comply was therefore unintentional.

Applicants submit herewith a complete response to the Notification to Comply With Requirements for Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures. The response includes 1) a copy of the Notification to Comply, 2) a Communication Under 37 CFR 1.821-1.825 and Preliminary Amendment, 3) a computer readable form of the sequence listing, and 4) an identical paper copy of the sequence listing.

The entire delay in filing the required reply until the filing of this petition was unintentional. Please deduct the petition fee, pursuant to 37 CFR §1.17(m), in accordance with the Fee Transmittal included with those documents. Please charge any additional fees or credit overpayment to the above Deposit Account. The Petition and this accompanying statement is submitted in duplicate.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



Jean M. Lockyer  
Reg. No. 44,879

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 415-576-0200  
Fax: 415-576-0300  
JML:dk  
60171694 v1



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

U.S. APPLICATION NUMBER NO. 09/807,556	FIRST NAMED APPLICANT Susanna M. Rybak	ATTY. DOCKET NO. 15280-3711US
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Kenneth A Weber  
Townsend & Townsend & Crew  
Two Embarcadero Center 8th Floor  
San Francisco, CA 94111-3834



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APR 01 2004

INTERNATIONAL APPLICATION NO. PCT/US99/25737	
LA. FILING DATE 11/01/1999	PRIORITY DATE 11/02/1998

**Response Due 12/23/03**

OFFICE OF PETITIONS

CONFIRMATION NO. 9130

371 FORMALITIES LETTER



\*0C00000011082462\*

b3b

Date Mailed: 10/23/2003

**NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS  
CONTAINING NUCLEOTIDE AND/OR AMINO ACID SEQUENCE DISCLOSURES**

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

The following items **MUST** be furnished within the period set forth below:

- The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 CFR 1.821-1.825 for the following reason(s):
  - This application does not contain a "Sequence Listing" as a separate part of the disclosure on paper copy or compact disc, as required by 37 CFR 1.821(c) and PCT Rule 5.2(a).
  - A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e) and PCT Rule 13ter.1(a)(ii).
  - APPLICANT MUST PROVIDE:
    - An initial or substitute computer readable form (CRF) of the "Sequence Listing."
    - An initial or substitute paper copy or compact disc of the "Sequence Listing," as well as an amendment directing its entry into the specification.
- For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:
  - For Rules Interpretation, call (703) 308-4216
  - To Purchase PatentIn Software, call (703) 306-2600
  - For PatentIn Software Program Help, call (703) 306-4119 or e-mail at [patin21help@uspto.gov](mailto:patin21help@uspto.gov) or [patin3help@uspto.gov](mailto:patin3help@uspto.gov)

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

PATRICIA A BOOKER

Telephone: (703) 305-3738

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
09/807,556	PCT/US99/25737	15280-3711US

FORM PCT/DO/EO/922 (371 Formalities Notice)